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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,537	10/16/2003	Hyun-kwon Chung	1793.1075	4036
49455 7590 10/01/2008 STEIN, MCEWEN & BUI, LLP 1400 EYE STREET, NW SUITE 300 WASHINGTON, DC 20005				
EXAMINER				
PRCT, NATHAN E				
ART UNIT		PAPER NUMBER		
2194				
MAIL DATE		DELIVERY MODE		
10/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/686,537

Applicant(s)

CHUNG ET AL.

Examiner

NATHAN PRICE

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Li B. Zhen/
Primary Examiner, Art Unit 2194

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed 02 September 2008 and 19 September 2008 have been fully considered but they are not persuasive.

With respect to the rejection under 35 U.S.C. 101 for claiming non-functional descriptive material, this basis applies to claim 1.

Regarding claim 1, Applicant argues the claim recites functional descriptive material. However, the claim recites three elements, which are AV data, a markup document and control information. It appears that these elements can be reasonably interpreted as compilations or mere arrangements of data. In this case, the elements are nonfunctional descriptive material (see MPEP 2106.01 paragraph 1). Although the data can be used by the apparatus to perform functions, the elements recited as part of the computer-readable medium appear to be reasonably interpreted as compilations or mere arrangements of data. Applicant argues the elements comprise a data structure. Applicant argues the control information of claim 1 may include a program. However, it does not appear to be limited to including a program, but instead, can possibly be data used to identify the buffering state. Therefore, as explained above, the elements appear to be data.

Regarding the carrier wave, the amendment to the specification removes carrier wave as a specifically disclosed form of storage. However, even with the amendment to the specification, it remains reasonable to interpret "computer-readable medium" as a carrier wave. The rejection can be overcome by directing the claim to a computer-readable storage medium and stating that the amendment to the specification is intended to remove carrier wave from the subject matter claimed by reciting computer-readable storage medium. However, the exact wording used by Applicant will need to be fully considered before the rejection can be withdrawn.

Regarding prior art rejections, Applicant argues Sullivan fails to teach a user selecting an interactive mode. However, the user can select to activate the interactive pages disclosed by Sullivan. For example, the user can select to activate the page displayed in figure 9.2. Therefore, the user selects the interactive mode by selecting to view the interactive page. With respect to selecting between interactive and non-interactive modes, the user can choose to view the content as shown in Fig. 9.1 or 9.2. Therefore, the user can select to view the content in an interactive mode (Fig. 9.2) or non-interactive mode (Fig. 9.1).

Applicant further argues Sullivan fails to teach preloading of a markup document. However, Sullivan teaches multimedia as part of web pages (p. 75 paragraph 1). Therefore, the multimedia is interpreted as part of the markup document disclosed by Sullivan. With respect to the AV data separately recited from the markup document, Sullivan teaches AV data files being selected not only by the programmer (p. 75 "filename"), but also by a user (p. 96 first full paragraph). Therefore, Sullivan teaches the presence of additional AV data not incorporated into the markup document.

Regarding the disk associated with the Sullivan book, the rejection is not based on the disk or its content. Examiner attempted to explain to Applicant's representative how Sullivan was being interpreted. This was done by explaining how the disk provides examples of specific embodiments of the teachings of Sullivan. However, the rejections are based on the teachings of Sullivan, and do not rely on the disk..

Continuation of 13. Other: This advisory action is in response to after-final submissions received 09/02/2008 and 09/19/2008.